

PRIVACY AND RECORDS MANAGEMENT OFFICE



September 13, 2019

Ben Welsh
DEPT MR 79822
411A Highland Ave
Somerville, MA 02144

RE: FOIA Case No. 2019-FPRO-01354

Dear Mr. Welsh:

This responds to your Freedom of Information Act (FOIA) request dated August 30, 2019, in which you seek access to Postal Service records. Specifically, you requested:

an electronic copy of all logos and illustrations of Mr. Zip, the U.S. Postal Service's cartoon representative for the ZIP Code, in SVG or EPS file format.

After contacting responsible persons from the Public Affairs and Communication Office, I was informed that these records are commercially sensitive, proprietary business information that the Postal Service does not disclose to the public and is therefore protected by FOIA Exemption 3 and 39 U.S.C. §§ 410(c)(2).

FOIA Exemption 3 provides that agencies may withhold records that are exempted from disclosure by another statute that "establishes particular criteria for withholding or refers to particular types of matters to be withheld." 5 U.S.C. § 552(b)(3). We consider that 39 U.S.C. §410(c)(2) operates independently as an exempting statute within the scope of Exemption 3.

Section 410(c)(2) of Title 39, U.S. Code, provides that "information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed" is exempt from the disclosure requirements of the FOIA. This section was enacted as part of the Postal Reorganization Act, 39 U.S.C. § 101 et seq., (1970), which established the Postal Service as an independent establishment of the executive branch and generally directed it to conduct its operations in accordance with sound business principles.

To determine what constitutes "good business practice" under § 410(c)(2), courts consider the customs of the commercial world, management techniques, and business law, as well as the standards of practice adhered to by large corporations. The Postal Service may withhold information of a commercial nature if large businesses would do the same. It would not be good business practice to release the requested information, and private businesses would not release information of this nature to the public. Disclosure of these records would reveal proprietary business information of the Postal Service.

If you are not satisfied with the response to this request, you may file an administrative appeal within 90 days of the date of this response letter by writing to the General Counsel Postal Service 475 L'Enfant Plaza SW Washington, DC 20260 or via email at FOIAAppeal@usps.gov. Your appeal must be postmarked or electronically transmitted within 90 days of the date of the response to your request. The letter of appeal should include, as applicable:

475 L'Enfant Plaza SW, Rm. 1P830
Washington DC 20260-1101
(202) 268-2608
FAX: (202) 268-5353

1. A copy of the request, of any notification of denial or other action, and of any other related correspondence;
2. The FOIA tracking number assigned to the request;
3. A statement of the action, or failure to act, from which the appeal is taken;
4. A statement identifying the specific redactions to responsive records that the requester is challenging;
5. A statement of the relief sought; and
6. A statement of the reasons why the requester believes the action or failure to act is erroneous.

For further assistance and to discuss any aspect of your request, you may contact FOIA Public Liaison listed below:

PRIVACY & RECORDS OFFICE
US POSTAL SERVICE
475 L'ENFANT PLAZA SW RM 1P830
WASHINGTON DC 20260-1101
Phone: (202) 268-2608
Fax: (202) 268-5353
FOIA Public Liaison: Jane Eyre

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Nancy P. Chavannes-Battle
Senior Government Information Specialist